

H.E.G. Ltd. Vs. Cce

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jan-08-2008

Reported in : (2008)(127)ECC175

Judge : S Kang, Vice

Appellant : H.E.G. Ltd.

Respondent : Cce

Judgement :

The appellants filed this appeal against the impugned order whereby the credit in respect of M.S. plates, Steel plates, and angles was denied on the ground that the same are used for fabrication of certain components of the plant and machinery which is immovable property. The case of the Revenue is also that the items in question per se neither components nor spares or accessories of the capital goods.

2. The contention of the appellant is that the goods in question are used in fabrication of the parts and components of the plant. The appellants are engaged in the manufacture of sponge iron and plant requires regular maintenance and to keep the plant in working condition the worn out parts are replaced. The appellants relies upon the decision of the Rajasthan High Court in the case of UOI v. Hindustan Zinc Ltd. reported in 2007 (214) ELT 510 (Raj.). The contention is that in this case the benefit of credit availed on MS/SS plates used for maintenance of plant was allowed. The appeal filed by the Revenue against this decision of the

Rajasthan High Court was dismissed by the Hon'ble Supreme Court, reported at 2007 (214) ELT A 5.

3. In the present case in reply to the show cause notice the appellants specifically stated that the items in question are used in maintenance of plant and machinery for replacement of worn out parts. Hon'ble Rajasthan High Court in the case of UOI v. Hindustan Zinc Ltd. has held as under: 3. This Court concluded that goods once brought in factory for use in up-keep and maintenance of plant and machinery, which are directly used in manufacture of excisable articles, are the capital goods, and were certainly of subordinate necessity to such plant and machinery for the running of plant and is otherwise essential for its smooth and regular operations. Without proper up-keep and maintenance, the principal plant and machinery cannot function properly. Use of such capital goods is essential for smooth running of plant with greater efficiency. In other words, the goods in question are essential supplement to the plant and machinery for use in manufacturing goods, for its greater efficiency and better result and thus, it is an integral part of the process with which the primary machines are engaged. Looked from these aspects, there is no impediment for the goods in question qualifying as capital goods eligible for Modvat credit.

4. Consequently, such goods which are necessary for running of plant and up-keeping of the machinery directly involved in the manufacturing and products were held to be eligible to avail Modvat credit.

The appeal filed against the said decision is also dismissed by the Hon'ble Supreme Court. In view of the above decision, impugned order is set aside and the appeal is allowed.

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